

**REMARKS**

While Applicant continues to maintain and assert the arguments presented in the Appeal Brief filed August 12, 2008, Applicant respectfully requests reopening of prosecution, entry of the foregoing amendments, and reconsideration of the instant application in view of the amendments, and the following remarks:

The following claims are pending: Claims 15, 19-24, 27-29, 32-34 and 37-41.

The following claims are independent: Claims 15, 24, 29 and 34.

The following claims have previously been cancelled without prejudice or disclaimer: Claims 3.

Please cancel the following claims without prejudice or disclaimer: Claims 1-2, 4-14, 16-18, 25-26, 30-31 and 35-36.

Please add new Claims 38-41 and please amend Claims 15, 19-24, 27-29, 32-34 and 37; although these claims have been amended herein to provide clarification, correct typographical inaccuracies and/or informalities, and/or to better track practical/commercial implementations/practices, Applicant submits that the originally filed claims are patentable and reserves the right to pursue the originally filed claims (as well as any claims dependent therefrom) at a later time and/or in one or more continuation/divisional application(s). Applicant submits that these new claims and/or claim amendments are supported throughout the originally filed specification, figures and claims, and that no new matter has been added by way of these amendments.

**Claim Rejections - 35 U.S.C. § 101**

The Examiner has rejected claims 15-23 (see Examiner's Answer dated September 2, 2008, page 8, and Reply Brief Noted communication dated November 17, 2008) under 35 U.S.C. § 101 as directed to non-statutory subject matter. Applicant respectfully traverses this rejection. Applicant submits that there is no test for non-statutory subject matter that subjectively precludes the aforementioned claims. MPEP § 2106, Section IV, states "claims directed to nothing more than abstract ideas (such as mathematical algorithms), natural phenomena, and laws of nature are not eligible for patent protection." MPEP § 2106 also discusses "[w]hile abstract ideas, natural phenomena, and laws of nature are not eligible for patenting, methods and products employing abstract ideas, natural phenomena, and laws of nature to perform a real-world function may well be."

Applicant submits that the elements recited in the claims are, in fact, directed to statutory subject matter and do not fall within the recognized Judicial Exceptions as merely abstract ideas (such as mathematical algorithms), natural phenomena, and/or laws of nature. Though Applicant respectfully traverses the Examiner's rejection and reserves the right to argue patentability of the claims in their original form at a later time, Applicant has amended independent claim 15 to provide clarification and/or to better track business practices. Claim 15 is a "processor-implemented method for electronic trading" and recites, inter alia, "receiving via a processor ...". Applicant submits claims 19-23, which depend directly or indirectly from independent claim 15, are directed to statutory subject matter for at least the reasons discussed above. Should the Examiner maintain the rejection, Applicant respectfully requests that the Examiner provide specific explanation describing how claim 15 is allegedly directed to non-statutory subject matter. Accordingly, for at least these reasons, Applicant

submits that claims 15 and 19-23 are directed to statutory subject matter and withdrawal of this ground of rejections is requested.

**Claim Rejections - 35 U.S.C. § 102**

The Examiner rejected claims 1-2, 4-7, 10, 13-21 and 24-37 under 35 U.S.C. § 102(b) as anticipated by Ram et al., US Patent Publication No. 2003/0004853 (hereinafter “Ram”). Applicant respectfully traverses these rejections and submits that a prima facie showing of anticipation has not been made and that Ram does not anticipate every element of the noted claims.

Independent claim 15 recites, *inter alia*:

A processor-implemented method for electronic trading, comprising:  
presenting a graphical user interface ... comprising:  
... a submit user control to facilitate simultaneously  
placing multiple option orders;  
... [and]  
placing the selected option orders simultaneously when the  
submit user control is activated.

Applicant submits Ram does not discuss or render obvious at least these elements recited in independent claim 15.

The Examiner alleges Ram anticipates the claimed option order placement. More specifically, the Examiner states:

Ram discloses receiving an instruction to place the two or more option orders and placing the two option orders (page 10, paragraph [0187]).  
(Office Action dated April 2, 2008, page 3)

Applicant notes the cited portion of Ram discusses:

[0187] The order/transaction processing subsystem 78 receives orders sent from the front end and records them in the transactions database 80. The subsystem applies appropriate business rules to validate the order and the parameters (such as terms) associated with it. (Ram, page 10, paragraph [0187])

Applicant respectfully traverses, and submits Ram does not anticipate or render obvious the claimed elements as recited in independent claim 15. More specifically, Applicant submits Ram does not discuss or render obvious at least the claimed "placing the selected option orders simultaneously" and "a submit user control to facilitate simultaneously placing multiple option orders", as recited in independent claim 15.

Applicant submits paragraph [0187] of Ram only discusses validation of received orders by "appl[ying] appropriate business rules" (Ram, [0187], lines 4-5). Ram discusses validation is performed prior to determining the route that "directs the order to the market trading participant ... with the best execution price" (Ram, paragraph [0188], lines 4-5). Applicant submits this serial processing does not anticipate at least the claimed "placing the selected option orders simultaneously", as recited in independent claim 15.

Instead, Applicant submits that, regarding placing orders, Ram discusses:

...any trading order transaction may be effected by dropping an icon which is representative of the specific transaction onto a selected cell, whereby the transaction software will issue a respective transaction instruction... (Ram, [0049], lines 2-5)

Applicant respectfully submits that Ram's order transacting method is fundamentally different from the claimed "placing the selected option orders simultaneously", because Ram only discusses a transaction icon being dropped on one cell at a time, and specifically Ram states, "each cell may represent only one specific trading order being posted by the respective

market trading participant for the selected security being displayed at any instant in time" (Ram, [0035], lines 4-7).

In summary, Applicant submits that neither the cited portions of Ram's market movement monitoring system, nor indeed any other part of the reference, discuss or render obvious at least the claimed "placing the selected option orders simultaneously" and "submit user control to facilitate simultaneously placing multiple option orders", as recited in independent claim 15.

The MPEP prescribes that, "when evaluating the scope of a claim, *every limitation in the claim must be considered*," [§ 2106 II(C), emphasis added] and, "*All words in a claim must be considered in judging the patentability of that claim against the prior art.*" [§ 2143.03, emphasis added]. Accordingly, Applicant submits that a *prima facie* case of anticipation has not been established. Should the Examiner maintain the rejection, Applicant respectfully requests clarification as to how and exactly why the Examiner believes Ram anticipates the claimed elements recited in claim 15, and provide specific citations and explanations describing how each and every element of claim 15 is allegedly anticipated by Ram, providing indications of specific, alleged correspondences between claim elements and cited portions of Ram.

Although of different scope than claim 15, Applicant submits claim 24 is patentable over Ram for at least similar reasons as discussed above identifying deficiencies in the reference with regard to independent claim 15 . For example, independent claim 24 recites, *inter alia*:

A computer-readable medium storing ... instructions to:  
present a graphical user interface ... comprising:

... a submit user control to facilitate simultaneously  
placing multiple option orders;  
... [and]  
place the selected option orders simultaneously when the  
submit user control is activated.

Applicant respectfully submits at least these claim elements from independent claim 24 are not discussed or rendered obvious by the applied reference.

Although of different scope than claim 15, Applicant submits claim 29 is patentable over Ram for at least similar reasons as discussed above identifying deficiencies in the reference with regard to independent claim 15 . For example, independent claim 29 recites, *inter alia*:

An electronic trading apparatus comprising:  
... a storage device ... storing instructions ... to:  
present a graphical user interface ... comprising:  
... a submit user control to facilitate  
simultaneously placing multiple option orders;  
... [and]  
place the selected option orders simultaneously when  
the submit user control is activated.

Applicant respectfully submits at least these claim elements from independent claim 29 are not discussed or rendered obvious by the applied reference.

Although of different scope than claim 15, Applicant submits claim 34 is patentable over Ram for at least similar reasons as discussed above identifying deficiencies in the reference with regard to independent claim 15 . For example, independent claim 34 recites, *inter alia*:

An enhanced option trading system comprising:

... a client device ... configured to:  
    present a graphical user interface ... comprising:  
        ... a submit user control to facilitate  
simultaneously placing multiple option orders;  
    ... [and]  
    place the selected option orders simultaneously when  
the submit user control is activated.

Applicant respectfully submits that at least these claim elements from independent claim 34 are not discussed or rendered obvious by the applied reference.

Furthermore, Applicant submits that, although of different scope, claims 19-21 and 38; 27-28 and 39; 32-33 and 40; and 37, 41, which depend directly or indirectly from independent claims 15, 24, 29 and 34 respectively, are also not anticipated by Ram for at least similar reasons as those discussed above identifying deficiencies in the applied reference with regard to the independent claims.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of these grounds of rejections.

### **Claim Rejections - 35 U.S.C. § 103**

The Examiner rejected claims 8-9, 11-12 and 22-23 under 35 U.S.C. § 103(a) as being unpatentable over Ram, in view of Berckmans et al., US Patent No. 6,876,981 (hereinafter “Berckmans”), and in further view of Official Notice. Applicant respectfully traverses these rejections and submits that a *prima facie* showing of obviousness has not been made and that the applied references, taken alone or in combination, fail to discuss or render obvious every element of each pending claim.

Moreover, Applicants respectfully traverse the Official Notice taken by the Examiner (see Office Action dated April 2, 2008, page 6), and again request evidentiary support. The Examiner takes official notice on page 6, alleging "it is old and well known within the art to determine a brightness level of color for ease of perception and processing of displayed information". Applicants note the Examiner has failed to establish what the level of ordinary skill in the art was at the time the invention was made within the context of the claimed invention. As such, Applicants submit that the claimed element(s) would not be "capable of instant and unquestionable demonstration as being well known" [MPEP §2144.03(A)] to one of ordinary skill in the art at the time the invention was made, within the context of the claimed invention.

MPEP § 706.02(j) prescribes that a rejection under 35 U.S.C. § 103 should set forth:

- (A) the relevant teachings of the prior art relied upon, preferably with reference to the relevant column or page number(s) and line numbers where appropriate,
- (B) the differences in the claim over the applied reference(s),
- (C) the proposed modification of the applied reference(s) to arrive at the claimed subject matter, and
- (D) an explanation as to why the claimed invention would have been obvious to one of ordinary skill in the art at the time the invention was made.

Applicant submits that the rejections in the pending Office Action do not establish each of these requirements. More specifically, Applicant submits that, by over-generalizing the applied references, the rejections in the Office Action do not establish at least either of the first two elements of a *prima facie* case of obviousness.



Applicant submits that claims 22-23, which depend directly or indirectly from independent claim 15, are not discussed or rendered obvious by Ram and/or Berckmans and/or Official Notice, taken alone or in combination, for at least similar reasons as those discussed above identifying deficiencies in the applied references with regard to independent claim 15.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of these grounds of rejections.

## CONCLUSION

Consequently, the reference(s) cited by the office action do not result in the claimed invention, there was/is no motivation, basis and/or rationale for such a combination of references (i.e., cited references do not teach, read on, suggest, or result in the claimed invention(s)), and the claimed inventions are not admitted to be prior art. Thus, the Applicant respectfully submits that the supporting remarks and claimed inventions, Claims 15, 19-24, 27-29, 32-34 and 37-41, all: overcome all rejections and/or objections as noted in the office action, are patentable over and discriminated from the cited reference(s), and are in a condition for allowance. Furthermore, Applicant believes that the above remarks, which distinguish the claims over the cited reference(s), pertained only to noted claim element portions. These remarks are believed to be sufficient to overcome the prior art. While many other claim elements and/or bases for rejection were not discussed as they have been rendered moot based on the above amendments and/or remarks, Applicant asserts that all such remaining and not discussed claim elements and/or bases for rejection, all, also are distinguished over the prior art and reserves the opportunity to more particularly traverse, remark and distinguish over any such remaining claim elements and/or bases for rejection at a later time, should it become necessary. Further, any remarks that were made in response to an Office Action objection and/or rejection as to any one claim element, and which may have been re-asserted as applying to another Office Action objection and/or rejection as to any other claim element(s), any such re-assertion of remarks is not meant to imply that there is commonality about the structure, functionality, means, operation, and/or scope of any of the claim elements, and no such commonality is admitted as a consequence of any such re-assertion of remarks. As such, Applicant does not concede that any claim elements have been anticipated and/or rendered obvious by any of the cited reference(s). Accordingly, Applicant

respectfully requests reconsideration and withdrawal of the rejection(s) and/or objection(s), and allowance of all claims.

### **AUTHORIZATION**

Applicant hereby authorizes and requests that the Commissioner charge any additional fees that may be required for consideration of this and/or any accompanying and/or necessary papers to Deposit Account No. 03-1240, Order No. 17209-345. In the event that an extension of time is required (or which may be required in addition to that requested in a petition for an extension of time), Applicant requests that the Commissioner grant a petition for an extension of time required to make this response timely, and, Applicant hereby authorizes and requests that the Commissioner charge any fee or credit any overpayment for such an extension of time to Deposit Account No. 03-1240, Order No. 17209-345.

In the event that a telephone conference would facilitate examination of the application in any way, Applicant invites the Examiner to contact the undersigned at the number provided.

Respectfully submitted,  
CHADBOURNE & PARKE LLP

Dated: August 19, 2009

By: Walter G. Hanchuk/  
Walter G. Hanchuk  
Registration No.: 35,179

Correspondence Address:

CHADBOURNE & PARKE LLP  
30 Rockefeller Plaza  
New York, NY 10112

212-408-5100 (Telephone)  
212-541-5369 (Facsimile)  
patents@chadbourne.com (E-mail)